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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	09/693,321	Examiner:	Singh, Rachna
Filed:	October 19, 2000	Group/Art Unit:	2176
Inventors:	Mohamed M. Abdelaziz, et al	Atty. Dkt. No:	5181-57700
Title:	DYNAMIC DISPLAYS IN A DISTRIBUTED COMPUTING ENVIRONMENT		

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below.

Robert C. Kowert
Name of Registered Representative

Signature

February 21, 2006
Date

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellants request review of the rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. The review is requested for the reasons stated below.

Claims 1, 3-8, 10-48 and 50-57 are pending in the application. Reconsideration of the present case is earnestly requested in light of the following remarks. Please note that for brevity, only the primary arguments directed to the independent claims are presented, and that additional arguments, e.g., directed to the subject matter of the dependent claims, will be presented if and when the case proceeds to Appeal.

The Examiner rejected claims 1, 3-7, 11, 13-26, 29, 31-48, 51 and 53-57 under 35 U.S.C. § 102(e) as being anticipated by Ballantyne et al. (U.S. Patent 6,687,873) (hereinafter "Ballantyne"). Appellants respectfully traverse this rejection for at least the reasons presented below. Appellants submit that the Examiner has failed to present a *prima facie* rejection of Appellants' independent claims.

Regarding claim 1, contrary to the Examiner's assertion, Ballantyne fails to disclose a service in a distributed computing environment generating results data for a client in the distributed computing environment; and accessing a presentation schema in the distributed computing environment, wherein the presentation schema includes information for presenting results data for clients, and wherein the presentation schema is provided by the same service in the distributed computing environment that generated the results data for the client.

Ballantyne discloses a system that modifies and recompiles legacy program applications to output data in XML format. Ballantyne's system includes a code generation system that allows analysis of legacy program applications and generation of modified legacy program applications. After modification, the legacy applications are able to directly output syntactically correct XML data. (see, Ballantyne, column 6, lines 15-26). Ballantyne's system is concerned with analyzing and modifying legacy applications to output XML data. Thus, a legacy application is first analyzed to determine where data are outputted and then the legacy application is modified to output XML formatted data in place of, or in addition to, the originally outputted data.

The Examiner has failed to show any portion of Ballantyne that describes a particular *service* that both generates results data for a client and provides a presentation schema that includes information for presenting the results data. In the Response to Arguments section of the Final Office Action dated November 29, 2005, the Examiner asserts that Ballantyne's modified legacy applications generate results data (see, Final Office Action, page 10, line 15 – page 11, line 9). However, the Examiner fails to cite any portion of Ballantyne that can be considered a single service that both generates results data for a client and that provides a presentation schema including information for presenting the results data. Ballantyne's modified legacy applications are clearly not one service that both generates results data for a client and that provides a presentation schema including information for presenting the results data.

Moreover, the Examiner has failed to consider Appellants' argument that is it Ballantyne's modeling engine 28 that provides a schema by allowing programmers to create the schema. In contrast, Appellants' claim recites that the *same service* that generates the results data for the client also provides the schema. Since Ballantyne's modeling engine does not generate results data (nor does the Examiner argue that it does), Ballantyne fails to teach a service that both generates the results data and provides the presentation schema.

The Examiner incorrectly states, "Applicant argues Ballantyne does not provide a presentation schema that includes information for presenting results data for clients in a computing environment" (Final Action, dated November 29, 2005, page 11, lines 9-12). The Examiner has misunderstood Appellants' previous argument. As noted above, Appellants are arguing, and have previously argued, that Ballantyne does not teach a service that both generates the results data for a client and provides the presentation schema. Appellants' previous discussion (see, Appellants' response filed August 22, 2005) regarding Ballantyne's modeling engine not generating results data was illustrating that neither Ballantyne's modeling engine nor his modified legacy applications can be considered the service of Appellants' claim.

The Examiner's rejection relies on various individual pieces of Ballantyne's system that, when properly considered against the combination of all the limitations of Appellants' claim, **fail to teach the combination of limitations of Appellants' claim** (e.g. a service that both generates results data for a client and provides a presentation schema that includes information for presenting results data for clients).

The Examiner relies on two different portions of Ballantyne's system to teach generating results data and providing a presentation schema, respectively. The Examiner argues that Ballantyne's modified legacy applications generate the results data and present the results data in accordance with information from a presentation schema. For example, the Examiner refers to Ballantyne's applications generating invoices and billing statements. Thus, the Examiner is clearly relying upon the individual modified legacy applications of Ballantyne to generate results data. In order to anticipate Appellants' claim, the modified legacy applications, which the Examiner argues generates the results data, must also provide the presentation schema. However, this is clearly not the case in Ballantyne's system. As noted above and previously, Ballantyne's applications do not provide a presentation schema. The Examiner relies upon the schema provided by the modeling engine, which does not generate results data and is completely distinct from the modified applications upon which the Examiner relies to generate the results data. Thus, Ballantyne clearly fails to anticipate claim 1.

In response to Appellants' previous argument regarding how, following the Examiner's reasoning, Ballantyne's modified legacy applications must also provide the presentation schema (since the Examiner relies upon Ballantyne's applications to generate the results data), the

Examiner merely asserts that Appellants' claim "does not recite that modified applications provide XML schemas" (Advisory Action, lines 17-19 and Response to Arguments, Final Office Action, dated November 29, 2005, page 11, lines 9-18). However, Appellants are not arguing that claim 1 recites applications that provide XML schemas. Appellants are pointing out the Examiner's mischaracterization of Ballantyne. Appellants' argument is, in part, that i) Appellants' claim 1 requires a service that both generates the results data and provides the presentation schema, ii) the Examiner relies upon Ballantyne's modified legacy applications to generate the results data, and iii) since Ballantyne's applications do not provide any presentation schemas they cannot be considered the service of Appellants' claim 1 (whether or not they generate results data).

As shown above, Ballantyne clearly fails to disclose a service that both generates results data and provides the presentation schema. It is well established that anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. M.P.E.P. 2131; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). As discussed in more detail below, Ballantyne clearly does not disclose the identical invention including each and every element as recited Appellants' claim 1. Thus, Ballantyne clearly and unequivocally fails to anticipate claim 1.

For at least the reasons presented above, the rejection of claim 1 is clearly not supported by the cited art and withdrawal of the rejection is respectfully requested. Similar arguments apply in regard to independent claims 24, 42, 46 and 48.

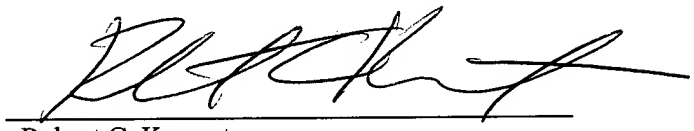
The Examiner's rejection of many of the dependent claims is additionally erroneous. For example, the cited art is clearly insufficient to support the rejection of claims 3, 4, 8, 10, 25, 27, 28, 36 and 50, as discussed in detail in Appellants' previous response on pp. 5-10.

In light of the foregoing remarks, Appellants submit the application is in condition for allowance, and notice to that effect is respectfully requested. If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above referenced application from becoming abandoned, Appellants hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 501505/5181-57700/RCK.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard
☒ Notice of Appeal

Respectfully submitted,



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Date: February 21, 2006